

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

JON NICOLET, individually and on behalf of all putative class members,

Plaintiff

V.

BUTTERBALL, LLC,

Defendant.

Case No. 2:13-cv-04138-NKL

ORDER

The parties filed a Joint Motion for Preliminary Approval of Class Action Settlement under Fed. R. Civ. Pro. 23(e) [Doc. 34]. For the reasons below, the Court GRANTS the motion.

Rule 23(e) directs that the claims of “a certified class may be settled, voluntarily dismissed, or compromised only with the court’s approval.” A proposal that binds the class members may only be approved “after a hearing and on finding that it is fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). This generally involves a two-step process, in which the Court first makes a preliminary inquiry into the terms of the settlement. Once satisfied that there is a plausible basis to approve the settlement, the Court directs notice and solicits the views of class members. Following the close of any opt-out and comment deadline, the Court holds the hearing required by Rule 23(e) and issues a final finding on whether the settlement is fair, reasonable and adequate. This

case now comes to the Court on the first step—preliminary approval and issuance of court-authorized notice of settlement.

The Court has reviewed the parties' Settlement Agreement [Doc. 35-1], including the provisions for payment of attorney fees up to 33% of the Settlement Fund and costs in an amount up to \$1,000. The Court preliminarily finds that the terms of the Settlement Agreement are within the range of a fair, reasonable, and adequate resolution of the issues. The Court therefore orders as follows:

1. The Settlement Agreement, including the provision for payment of attorney fees and costs, is preliminarily approved, subject to objection by class members.
2. The following class is conditionally certified for settlement purposes only, pursuant to Federal Rule of Civil Procedure 23(b)(3):

All job applicants who applied to work for Butterball in Carthage, Missouri, during the time frame of March 13, 2011 through September 30, 2013, and who are identified in the Class List attached as Exhibit B to the parties' Settlement Agreement.

3. Jason Brown and Jayson Watkins are designated as Class Counsel. Jon Nicolet is designated as representative for the Class.
4. The form of class notice attached to the parties' Settlement Agreement as Exhibit A, and the plan for its dissemination specified in the Settlement Agreement, are approved. The class notice will be mailed to Class Members no later than 15 days after entry of this Order.

5. Pending the outcome of a final fairness hearing, all members of the class are preliminarily enjoined from commencing, prosecuting, or maintaining any claim already asserted in, and encompassed by, this action.

6. A final fairness hearing will be held on August 11, 2014, at 9:00 a.m. in Courtroom 4A, 80 Lafayette Street, Jefferson City, Missouri 65101.

For the foregoing reasons, the Court GRANTS the parties' Joint Motion for Preliminary Approval of Class Action Settlement [Doc. 34].

s/ Nanette K. Laughrey
NANETTE K. LAUGHREY
United States District Judge

Dated: April 28, 2014
Jefferson City, Missouri